

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

GAIL GARNER,

PLAINTIFF,

**08-CV-6191-CJS
RESPONSE TO ORDER**

V.

**DII INDUSTRIES, LLC ASBESTOS PI TRUST
MARK M. GLEASON
MARCELLENE MALOUF
DOUGLAS C. ALLEN**

DEFENDANTS.

On October 20, 2008, Honorable Judge Charles J. Siragusa ordered the Court Clerk to amend the caption of plaintiff's case to remove the words "Claimant representative estate for Angelo Palermo" to Gail Garner as representing herself only, as it was unclear to the Court whether Gail Garner is asserting a personal injury claim, or a claim on behalf of the deceased's estate.

The plaintiffs, Gail Garner, etc. hereby respectfully submits this Response to the Court's Order pursuant to Federal Rule of Civil Procedure 25, that the Plaintiffs

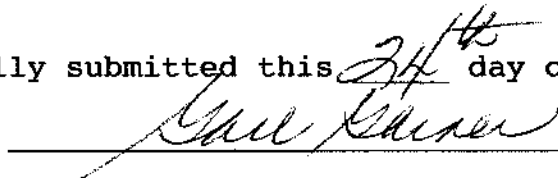
respectfully show that Angelo Palermo is the individual whose claim was allegedly improperly adjudicated, and Gail Garner is advancing the claims against the DII Industries, LLC Asbestos PI Trust, of the estate, not her own.

It is her opinion that if she (Gail Garner) is the administrator of her father's estate, she is authorized under SECTION §11-1.1 (13) of the New York State, Estates, Powers and Trusts Law: To "CONTEST, COMPROMISE OR OTHERWISE SETTLE ANY CLAIM IN FAVOR OF THE ESTATE, TRUST OR FIDUCIARY, OR IN FAVOR OF THIRD PERSONS AND AGAINST THE ESTATE, TRUST OR FIDUCIARY".

Since the statute gives the administrator or executor authority to act in his or her own capacity, I should not be required to retain an attorney and be allowed to proceed pro se, provided I obtain, which I can do immediately, a certificate of letters of administration appointing me as the fiduciary of my father's estate.

However, before I incur the expense of obtaining these letters of administration, I would respectfully request that I be advised if I would be permitted to appear in that manner.

Respectfully submitted this 24th day of October 2008.

A handwritten signature in cursive script, appearing to read "Gail Garner", is written over a horizontal line.

Gail Garner

Gail Garner
983 Brown Road
Rochester, NY 14622
(585) 544-8678

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing instrument, Response to Order pursuant to Federal Rule of Civil Procedure 25, was served along with this proof of service to:

The Honorable Charles J. Siragusa
United States District Court
Western District of New York
2120 Kenneth B. Keating Federal Building
100 State Street
Rochester, New York 14614

Andrew L. Morrison (AM 1071)
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1717 Main Street, Suite 2800
Dallas, Texas 75201

Dated this 24th day of October 2008


Gail Garner